

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California
Date: October 22, 1998
Resolution No. L-274

RESOLUTION

Resolution Directing the Release of Documents Pursuant to Public Records Act Request by Endeman, Lincoln, Turek & Heater, Counsel On Behalf of the Residents of the Avalon Carson Mobilehome Park in Carson, California. The Request Seeks the Release of All Documents Pertaining to the Avalon Carson Mobilehome Park Since 1977, including Staff Inspection Reports.

BACKGROUND

On July 17, 1998, the Commission ("CPUC") received a Public Records Act request for all records pertaining to the Avalon Carson Mobilehome Park from 1977 to the present. The search for records was necessarily narrowed in terms of the time period, for two reasons. First, legislation authorizing CPUC regulation of mobilehome parks was not passed until September 30, 1990 and amended in 1992.¹ Second, the CPUC's general documents retention policy calls for the periodic purging of files. Accordingly, CPUC divisions are encouraged to purge their files when documents have been on file for 3 years or longer.

The search for records conducted by CPUC Staff in Los Angeles and San Francisco resulted in the locating of several annual reports, which are not the subject of this resolution since CPUC approval is not required for their release. Also retrieved were two Staff Inspection Reports, reporting findings made from staff inspections conducted on June 18, 1992 and March 13, 1997, respectively.

¹ The amendment, SB 1962, was approved in September 1992.

DISCUSSION:

The Staff Inspection Report is a public record, as defined by the California Public Records Act, Government Code Section 6250 *et seq.*² The general policy of the Public Records Act favors disclosure, unless the records fall under specified exemptions enumerated in the Public Records Act (PRA), or a showing is made that the public interest in confidentiality outweighs the public interest in disclosure. PRA exemptions are construed narrowly to ensure maximum disclosure of government operations. Consistent with the policy favoring disclosure, the exemptions permit nondisclosure, but do not prohibit disclosure. Thus, public records must be made available for public inspection unless they are exempt, or the agency demonstrates that the public interest served by not making the records public clearly outweighs the public interest served by disclosure of the records. (Gov. Code §6255)

Staff Inspection Reports are confidential under the CPUC's General Order No. 66-C, and may not be released absent an order by the Commission, or an order from a court of competent jurisdiction. Periodic inspections are required, and the reports in question are prepared by the staff in the ordinary course of Commission business. Possible interference with the Commission's ability to obtain information is not a factor here. Similarly, any contentions that the release of the Staff Inspection Report will likely embroil the CPUC in litigation under these circumstances are without merit. Analogous arguments have been made with respect to the release of accident reports prepared by the Commission, and have proved to be unfounded.

The Commission may determine whether good cause exists to permit the release of Staff Inspection Reports. There is substantial public interest in disclosure of these records which clearly outweighs any countervailing interests in nondisclosure. Potential health and safety violations favor the disclosure of the reports so that steps may be taken to correct the deficiencies. In addition, disclosure promotes government and public utility accountability, and provides access to information concerning the conduct of the people's business. Given these facts, there does not appear to be any public policy basis for withholding the requested records.

² Government Code Section 6252(d) defines public records as including "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

FINDINGS OF FACT

1. On July 17, 1998, the Commission received a Public Records Act request for all documents pertaining to the Avalon Carson Mobilehome Park from 1977 to the present.
2. The request was made by Endeman, Lincoln, Turek & Heater, counsel on behalf of the residents of the Avalon Carson Mobilehome Park.
3. The CPUC did not begin regulating mobilehome parks until 1990.
4. The earliest record of inspection that the CPUC has for Carson Mobilehome Park is June 18, 1992.
5. The Commission conducted an inspection of the Avalon Carson Mobilehome Park on March 13, 1997 and filed a report. CPUC Staff also sent a follow-up letter dated November 5, 1997, relative to this report.
6. The files also contain annual reports, not the subject of this resolution since Commission approval is not required for their release.
7. The residents of the Avalon Carson Mobilehome Park have an interest in the disclosure of the Inspection Reports because these records concern conditions germane to their residency at the mobilehome park.
8. The public interest in matters that concern public health and safety is significant.
9. The public interest in disclosure outweighs the public interest in confidentiality.

CONCLUSIONS OF LAW

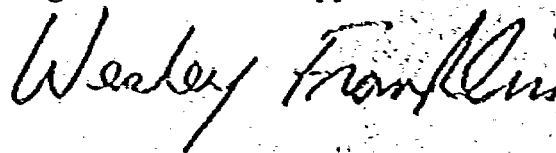
1. Inspection Reports prepared by CPUC Staff are public records, as defined by Government Code Section 6252(d).
2. General Order 66-C prohibits the disclosure of inspection reports in the absence of formal action by the Commission or disclosure at a formal hearing.
3. The general policy of the California Public Records Act favors the disclosure of records.

4. Under the specific facts of this case, the public interest served by withholding the inspection reports fails to clearly outweigh the public interest served by the disclosure of the reports.

ORDER

1. The Public Records Act request by Endeman, Lincoln, Turek & Heater, counsel on behalf of the residents of the Avalon Carson Mobilehome Park, for the release of records pertaining to the Avalon Carson Mobilehome Park is granted.
2. This resolution releases Staff Inspection Reports of June 18, 1992 and March 13, 1997, and a follow-up letter to the 1997 inspection, dated November 5, 1997.
3. The effective date of this order is today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting of October 22, 1998. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners